

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Kelvin Laneil James,

Case No.: 2:24-cv-00889-JAD-BNW

Plaintiff

v.

**Order Denying Motion for  
Entry of Default**

Ely State Prison's AWO T. Cooke,


[ECF No. 6]

Defendant

In this prisoner civil-rights action, pro se plaintiff Kelvin Laneil James asks the court to enter default against Defendant Associate Warden T. Cooke because she has not yet responded to the complaint.<sup>1</sup>

But the clock on that response deadline hasn't even started ticking yet. A defendant is not legally in default until she has (1) been served with the summons and complaint and (2) failed to respond after the deadlines in Federal Rule of Civil Procedure 12(a) have expired. Because James has applied to proceed *in forma pauperis*,<sup>2</sup> the first step of that process has not occurred—the court has not yet ordered service on the defendant, so she has not been served. As a result, the defendant has not missed any response deadline and is not in default.

IT IS THEREFORE ORDERED that the plaintiff's motion for entry of default [ECF No. 6] is **DENIED** as premature.

  
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U.S. District Judge Jennifer A. Dorsey  
September 4, 2024

<sup>1</sup> ECF No. 6.

<sup>2</sup> ECF Nos. 4, 5.